

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Wireless Telecommunications Bureau	)	WT Docket No. 02-86
Seeks Comment on Petition Filed by	)	
AirCell, Inc. For Extension of Waiver	)	

To: The Wireless Telecommunications Bureau

**MOTION OF AIRCELL, INC.  
FOR EXTENSION OF TIME TO FILE REPLY COMMENTS  
IN RESPONSE TO THE PUBLIC NOTICE RELATING TO AIRCELL'S  
PETITION FOR EXTENSION OF WAIVER**

Pursuant to 47 C.F.R. § 1.46, AirCell, Inc. ("AirCell"), by counsel, respectfully requests a 45-day extension for filing reply comments in response to the Wireless Telecommunications Bureau's (the "Bureau") March 11, 2003 *Public Notice* in the above-referenced docket. 1/ The *Public Notice* sought comment on the March 28, 2002 petition filed by AirCell and its cellular licensee partners for an extension of the period and scope of their waiver of Section 22.925 of the Commission's rules. 2/

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1/ Wireless Telecommunications Bureau Seeks Comment on Petition Filed by AirCell, Inc. for Extension of Waiver, *Public Notice*, \_\_\_ FCC Rcd \_\_\_, DA 03-721 (rel. Mar. 11, 2003) ("*Public Notice*"). The Public Notice set April 10, 2003 as the date for initial comments and April 25, 2003 as the date for reply comments.

2/ 47 C.F.R. § 22.925.

AirCell requires additional time in order to review, analyze and respond to the voluminous technical studies filed jointly by AT&T Wireless Services, Inc., Cingular Wireless LLC, and Cellco Partnership d/b/a Verizon Wireless (collectively “Opposing Carriers”) on April 10, 2003. Specifically, the comments filed by the Opposing Carriers totaled 547 pages, which included 461 pages of engineering analysis and related technical attachments. <sup>3/</sup> For one exhibit alone, the Opposing Carriers claim to rely on data from 10,000 miles of flight testing. <sup>4/</sup> The Opposing Carriers have had nearly an entire year in which to compile this material in response to AirCell’s Petition filed on March 28, 2002, which was previously put out for public comment on April 24, 2002. <sup>5/</sup> Accordingly, it would be unreasonable to expect AirCell to evaluate and validate the technical tests, assumptions, and calculations contained in these documents, as well as to develop a thorough response to this quantity of material in the 15-day (11 business-day) period provided for in the *Public Notice*.

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<sup>3/</sup> The technical exhibits include: (1) an engineering response to AirCell’s Petition, (2) an engineering report regarding the compatibility of the AirCell system with AMPS, TDMA and CDMA networks; and (3) an engineering analysis of the FCC’s recent AirCell remand order. In addition, Lucent Technologies Inc. filed 18-pages of technical comments.

<sup>4/</sup> See Opposing Carriers’ Comments at 36.

<sup>5/</sup> See Wireless Telecommunications Bureau Seeks Comment on Petition Filed by AirCell, Inc. for Extension of Waiver, *Public Notice*, DA 02-949 (rel. Apr. 24, 2002). The Bureau later suspended the comment cycle pending a Commission decision in response to a remand from the D.C. Circuit. See *AirCell, Inc., Order*, 17 FCC Rcd 8258 (WTB 2002) (citing *AT&T Wireless Services Inc. v. FCC*, 270 F.3d 959 (D.C. Cir. 2001), petition for rehearing denied Jan. 29, 2002).

The Commission grants extensions of time when justified in order to obtain a “more complete and responsive record.” [6/](#) Past precedent indicates that the Commission is particularly disposed to such extensions in cases where the record is “voluminous,” where “detailed . . . empirical studies” are submitted, or where “highly technical” issues are involved. [7/](#) The Commission has granted extensions of 45 days or more in such circumstances. [8/](#) Consistent with this

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[6/](#) Western PCS III License Corp., *Order*, 13 FCC Rcd 23,628, ¶ 2 (WTB 1998).

[7/](#) See, e.g., 2002 Biennial Regulatory Review -- Review of the Commission’s Broadcast Ownership Rules, *Order*, 17 FCC Rcd 22,201, ¶ 4 (MB 2002) (granting extension in proceeding involving the submission of “detailed . . . empirical studies”); Improving Public Safety Communications in the 800 MHz Band, *Order*, 17 FCC Rcd 8898, ¶ 2 (WTB 2002) (granting extension due to the “complexity of issues present in the proceeding”); Streamlining Broadcast EEO Rule and Policies, *Order*, 11 FCC Rcd 11,654, ¶ 5 (MMB 1996) (granting extension due to “voluminous nature” of the comments); Ameritech Corporation Telephone Operating Companies’ Continuing Property Records Audit, *Order*, 14 FCC Rcd 8984, ¶ 2 (1999) (granting extension for parties to “analyze the highly technical issues” involved).

[8/](#) See, e.g., 1998 Biennial Regulatory Review – Streamlining of Radio Technical Rules in Parts 73 and 74, *Order*, 13 FCC Rcd 13513 (MMB 1998) (granting 60-day extension to permit engineering review of proposed technical rules); Reexamination of the Comparative Standards for Noncommercial Educational Applicants, *Order*, 14 FCC Rcd 698 (MMB 1998) (granting 45-day extension based on expected volume of comments); Telecommunications Services Inside Wiring, *Order*, 13 FCC Rcd 883 (CSB 1998) (granting 45-day extension for completion of expert study).

precedent, therefore, AirCell requests that the Bureau grant a 45-day extension for the filing of reply comments in this proceeding.

Respectfully submitted,

**AIRCELL, INC.**

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April 14, 2003

## **CERTIFICATE OF SERVICE**

I, Jean Claire Meikle, do hereby certify that the foregoing Motion was served this 14th day of April, 2003, by first-class U.S. mail or by e-mail, as indicated, on:

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